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	Policy #:		H-09
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PURPOSE

To establish authorization requirements for uses and disclosures other than for treatment, payment, and health care operations or other exceptions under these policies.

DEFINITIONS

Refer to HIPM Policies and Procedures Definitions Glossary

POLICY

LARA components cannot use or disclose protected health information, for purposes *other* than treatment, payment and health care operations, without a valid written authorization from the individual, except as otherwise permitted by these Policies or required by law. When LARA obtains or receives a valid authorization for its use or disclosure of protected health information, such use or disclosure must be consistent with the authorization. Information released pursuant to this authorization may include alcohol and/or drug abuse records protected under federal and/or local law. Information may also include behavioral or mental health services, or information relating to sexually transmitted disease, Human Immunodeficiency Virus, and any other communicable disease.

*Special Consideration for **Psychotherapy Notes:***

An authorization is required for any use or disclosure of psychotherapy notes with some exceptions. See * Mental Health Records

*Special Consideration for **Marketing Purposes:***

An authorization is required for marketing purposes with some exceptions. See * Marketing.

*Special Consideration for **Compound Authorizations:***

Compound authorizations can only be accepted when:

- Combined for the same research study
- For psychotherapy notes combined with another authorization for psychotherapy notes

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- There are no conditions stated for the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits

Revocation of Authorizations

Individuals may revoke an authorization at any time provided the revocation is in writing. LARA will permit the revocation to the extent that reliance on the authorization may have already occurred.

**Note: Some applicable privacy or confidentiality laws are more restrictive than HIPAA. The law that provides the individual with greater privacy protection or rights must be complied with. (Examples of state and federal laws that require additional confidentiality protections are: Medicaid, Substance Abuse, Public Health Code, HI VIA 10 S/STDs, Mental Health Code,).*

PROCEDURE

This procedure provides instruction on how and when to request completed authorizations from individuals; how to review and process all authorizations; and to provide a HIPAA compliant LARA Authorization form.

Responsibility

Action

Review of requests for PHI

Determine if an authorization is required. (See *Permitted and Required Disclosures*) If a request for PHI does not fall into one of the excepted purposes from the *Permitted and Required Disclosures* section of this policy, then a valid written authorization must be received.

Review Authorization for HIPAA Compliance

Determine that the authorization is HIPAA compliant.

LARA accepts as a valid authorization any form (document) written in plain language and containing all of the following:

- a) A description of the information to be used or disclosed;

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- b) The name of the specific person or entity authorized to use or disclose the protected health information;
- c) The name of the specific person or entity to whom LARA may make the requested use or disclosure;
- d) A statement of the purpose of the use or disclosure.
- e) If the authorization is initiated by the individual the statement "At the request of the individual" is adequate;
- f) An expiration date;
- g) A statement of the individual's right to revoke the authorization in writing with a description of how the individual may revoke the authorization;
- h) A statement that information used or disclosed may be subject to re-disclosure by the recipient and is no longer protected;
- i) A statement that LARA will not condition treatment, payment, enrollment in the health plan, or eligibility for benefits on the individual's providing authorization unless the information is necessary to demonstrate that the individual meets eligibility or enrollment criteria;
- j) Signature of the individual and date or if signed by a personal representative, a description of such representative's authority to act for the individual.

See Checklist for Compliant Authorization, Appendix C.

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LARA will **not accept as valid** an authorization that:

- a) Has not been filled out completely in regard to items a-i above;
- b) Contains material information known to be false;
- c) Is known to have been revoked;
- d) The expiration date or event has passed; or
- e) Violates requirements concerning compound authorizations or the conditioning of authorizations.

Special Consideration

*Special Consideration for **Psychotherapy Notes***

An authorization is required for any use or disclosure of psychotherapy notes with the exception of these uses:

- a) Use by the originator of the psychotherapy notes for treatment
- b) Use or disclosure by LARA in training programs for students, trainees or practitioners in mental health
- c) Use or disclosure by LARA to defend a legal action brought by the individual
- d) Use or disclosure by LARA to oversee originator of psychotherapy notes as required or permitted by the Privacy Rule.

*Special Consideration for **Marketing Purposes***

An authorization is required for marketing purposes *unless* the communication is:

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- a) To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication, including communications about: the entities participation in a health care provider network or health plan network; replacement of , or enhancements to , a health plan; and health related products or services available only to a health plan enrollee that add value to but are not part of, a plan of benefits.
- b) To treat the individual,
- c) For case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual.

*Special Consideration for **Compound Authorizations***

Compound authorizations can only be accepted when:

- a) Combined for the same research study
- b) For psychotherapy notes combined with another authorization for psychotherapy notes
- c) There are no conditions stated for the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits

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Revocation of Authorizations

Individuals may revoke an authorization at any time provided the revocation is in writing. LARA will permit the revocation to the extent that reliance on the authorization may have already occurred.

Individual Copy

LARA will provide the individual with a copy of the signed authorization upon request.

Document and Retain

LARA will document and retain authorizations and revocations for six years from the last date it was in effect.

**Note: Some applicable privacy or confidentiality laws are more restrictive than HIPAA. The law that provides the individual with greater privacy protection or rights must be complied with. (Examples of state and federal laws that require additional confidentiality protections are: Medicaid, Substance Abuse, Public Health Code, Mental Health Code).*

REFERENCES

[45 CFR §164.508, §164.510, §164.512, §164.530](#)
[45 CFR §164.508\(a\), §164.508\(b\), §164.508\(c\), §164.508\(d\), §164.508\(e\), §164.508\(f\), §164.512, §164.530U\), Authorization to Disclose Protected Health Information](#)